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6 Stark Investment Company, a
California general partnership

7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11
12 PALMTREE ACQUISITION
13 CORPORATION, a Delaware corporation,

14 Plaintiff,
15 vs.

16 MICHAEL R. NEELY, an individual;
PERRY J. NEELY, an individual; GARY
17 NEELY, an individual; MICHAEL R.
NEELY, PERRY J. NEELY and GARY
18 NEELY dba MIKE'S ONE HOUR
CLEANERS; CHARLES FREDERICK
HARTZ dba PAUL'S SPARKLE
19 CLEANERS; CHARLES F. HARTZ, an
individual; MULTIMATIC
20 CORPORATION, a New Jersey
corporation; WESTERN STATES
21 DESIGN, a California corporation;
MCCORDUCK PROPERTIES
22 LIVERMORE, LLC, a Delaware limited
liability company individually and as the
successor to JOHN MCCORMICK,
KATHLEEN MCCORDUCK, PAMELA
23 MCCORDUCK, SANDRA
MCCORDUCK MARONA, and IMA
24 FINANCIAL CORPORATION, a
California corporation; STARK
INVESTMENT COMPANY, a California
25 general partnership; GRUBB & ELLIS
REALTY INCOME TRUST,
LIQUIDATING TRUST, a California trust;

26 Case No. CV 08 3168 MHP

27 [PROPOSED ORDER] TO FILE FIRST
AMENDED THIRD PARTY COMPLAINT
[FRCP 15(a) & 21]

28 Hon. Marilyn H. Patel

1 and DOES 1-20, inclusive,

2 Defendants.

3 THE KIRRBERG CORPORATION,
4 formerly known as MULTIMATIC
5 CORPORATION, a New Jersey
6 Corporation; and STARK INVESTMENT
7 COMPANY, L.P., a California limited
8 partnership,

9 Third-Party Plaintiffs,

10 v.
11 MELINDA ELLIS EVERIS, Successor
12 Trustee of the Harold A. Ellis, Jr.
13 Revocable Inter Vivos Trust Dated July 13,
14 2000; JAMES R. PROUD, an individual;
15 DEAN BANKS, an individual; EMMETT
16 R. DEMOSS JR., an individual; JOHN E.
17 HYJER, an individual; THE ANDERSON
18 MARITAL TRUST dated February 28,
19 1979, as amended and restated August 31,
20 1994; and THE ANDERSON TAX
21 DEFERRAL TRUST, dated February 28,
22 1979, as amended and restated August 31,
23 1994,

24 Third-Party Defendants.

25

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27 WHEREAS Third Party Plaintiffs, The Kirrberg Corporation and Stark Investment
28 Company, L.P. desire to file a First Amended Third Party Complaint;

29 WHEREAS, Defendant Estate of Harold A. Ellis, Jr. is the only party that has
30 appeared and does not oppose the filing of the First Amended Third Party Complaint;

31 THEREFORE, IT IS HEREBY STIPULATED by and between the attorneys for
32 Third Party Plaintiffs and for Third Party Defendant Estate of Harold A. Ellis, Jr. that Third Party
33 Plaintiffs be granted leave to file a First Amended Third Party Complaint, a copy of which is
34 attached, on or before May 24, 2010.

35

36

1 APPROVED AS TO FORM AND CONTENT:

2 Dated: May 24, 2010

DONGELL LAWRENCE FINNEY LLP

3
4 By: /s/ Thomas F. Vandenburg

Thomas F. Vandenburg
5 Attorneys for Defendant and Third-Party Plaintiff
6 THE KIRRBERG CORPORATION, formerly
7 known as MULTIMATIC CORPORATION, a New
Jersey corporation

8 Dated: May 24, 2010

GONSALVES & KOZACHENKO

9
10 By: /s/ Selena P. Ontiveros

Selena P. Ontiveros
11 Attorneys for Defendant and Third-Party Plaintiff
12 Start Investment Company, a California general
13 partnership

14 Dated: May 24, 2010

STEIN & LUBIN LLP

15
16 By: /s/ Jonathan E. Sommer

Jonathan E. Sommer
17 Attorneys for Defendant
18 Estate of Harold A. Ellis, Jr.

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20
21 IT IS SO ORDERED.

22 Dated: 5/25/2010



1 **Re: Palmtree Acquisition v. Michael R. Neely, et al.**
2 **United States District Court, Case No. CV 08-3168 MHP**

3 **PROOF OF SERVICE—ELECTRONIC TRANSMISSION**

4 STATE OF CALIFORNIA/COUNTY OF LOS ANGELES

5 I am a citizen of the United States and am employed in the County of Los Angeles,
6 State of California. I am over the age of 18 and not a party to the within action; my business
7 address is DONGELL LAWRENCE FINNEY LLP, 707 Wilshire Boulevard, 45th Floor, Los
Angeles, CA 90017-3609.

8 On the date set forth below, I electronically served the document described below
9 via the United States District Court-Northern District's ECF, on the recipients designated on the
Transaction Receipt located on the Court's website.

10 **[PROPOSED ORDER] TO FILE FIRST AMENDED THIRD PARTY COMPLAINT**
[FRCP 15(a) & 21]

11 On the following parties:

12 SEE SERVICE LIST PROVIDED BY THE COURT'S ECF WEBSITE

14 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that I am employed in the office of a member of the bar of this
15 court, at whose direction the service was made.

16 Executed on May 24, 2010, at Los Angeles, California.

18 /s/ Sheryl R. Douglas

Sheryl R. Douglas